

THE PEOPLE OF THE PHILIPPINES, PLAINTIFF AND APPELLEE, VS. ANTONIO P. CID, DEFENDANT AND APPELLANT.

G.R. Nos. L-45649-45652. October 17, 1938

Ponente: DIAZ, J.

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DIAZ, J.:

In four separate cases, Antonio P. Cid was charged with, prosecuted for and convicted of malversation of public funds through falsification of public documents, and sentenced later by the Court of First Instance of Ilocos Norte, as follows:

- To an indeterminate penalty of from six months and one day of prision correccional to six years and one day of prision mayor, to pay a fine of P500, to indemnify the municipal government of Batac, Ilocos Norte, in the sum of P741.24, and to pay the costs of the trial in the first case (criminal case No. 6716 of the lower court; G. R. No. 45649).
- To an indeterminate penalty of from six months and one day of prision correccional to six years and one day of prision mayor, to pay a fine of P500, to indemnify the municipal government of Batac, Ilocos Norte, in the sum of P1,811.10, and to pay the costs of; the trial in the second case (criminal case No. 6717 of the lower court; G. R. No. 45650).
- To an indeterminate penalty of from six months and one day of prision correccional to six years and one day of prision mayor, to pay also a fine of P500, to indemnify the municipality of Batac, Ilocos Norte, in the sum of P788.89 and to pay the costs of the trial in the third case (criminal case No. 6718 of the lower court; G. R. No. 45651), and finally,
- To a likewise indeterminate penalty of from six months and one day of prision correccional to six years and one day of prision mayor, to pay another fine of P500, to indemnify the municipality of Batac, Ilocos Norte, in the sum of P1,598.83 and to pay the costs of the trial in the fourth case (criminal case No. 6719 of the lower court; G. R. No. 45652).

On February 26, 1937, before the trial of his four cases, the accused, through his attorneys, asked that, as the four charges imputed against him are so closely related to one another, the acts constituting the same should be considered as one continuous act, or that the crime committed by him was a continuous one, and therefore said charges should be ordered consolidated into only one charge. The record is silent and the lower court fails to make any mention in its decision and judgment of the nature of its resolution on the petition of the accused. It is stated therein, however, that the plea entered by the accused when the four informations filed against him were read to him one after another, was that of guilty.

Not agreeing to the sentences imposed upon him, the accused appealed therefrom and now contends that the lower court erred in not finding him guilty of only one crime of malversation with falsification of public documents.

In order to have an exact idea of the facts, it should be stated that the allegations of the information heading the

first case (G. R. No. 45649) are as follows:

"That on or about and within the period comprised between May 1, 1936, and October 3, 1936, in the municipality of Batac, Province of Ilocos Norte, Philippine Islands, the above-named accused, being municipal treasurer of said municipality and deputy provincial treasurer of Ilocos Norte, duly appointed and qualified as such, and being a bonded official besides, voluntarily, unlawfully and criminally, and taking advantage of his position, malversed and misappropriated the sum of P741.24 belonging to the public funds, by falsifying a public document that he caused to pass for a payroll (Provincial Form No. 38-A), which is voucher No. 365, making it appear therein that Severina R. Cabanag, Antonia Isaguirre, Juana Lumang, Dorico A. Gumtang, Remedios R. Gumtang, Juana Mangapit, Caridad Garganta, Maria R. Rigonan, Marcela Rigonan, Cresenciana Mangapit, Doroteo M. Torres, Petra A. Layawan, Nicolasa Ulit, Maria Naanep, Andrea G. Gumtang, all municipal teachers of Batac, received their corresponding salaries as such teachers for the period from May 1, to July 6, 1936, which salaries amounted to P741.24, and falsified or caused to be falsified, imitated or forged on the aforesaid document the signatures of the above-named teachers as well as that of Rosendo R. Paguyo, School Supervisor of Batac, whose duty was to approve and sign the teachers' payrolls, when in fact said teachers did not receive either wholly or in part the sums indicated as received by them in said document, nor was said document signed or approved by School Supervisor Rosendo R. Paguyo; and later, on October 3, 1936, in the above-stated municipality of Batac, said accused voluntarily, unlawfully and criminally entered said document in his cash book which is another public document, as a legal and valid payroll paid by him as voucher No. 365, thereby falsifying the statement of facts in said cash book, and appropriating for his personal use and benefit said sum of P741.24, the amount of the supposed payroll in question. Contrary to law."

In the second case (G. R. No. 45650), the allegations of the information admitted by the accused are as follows:

"That on or about and within the period comprised between July 1, 1936, and October 3, 1936, in the municipality of Batac, Province of Ilocos Norte, Philippine Islands, the above-named accused, being municipal treasurer of said municipality and deputy provincial treasurer of Ilocos Norte, duly appointed and qualified as such, and being a bonded official besides, voluntarily, unlawfully and criminally, and taking advantage of his position, malversed and misappropriated the sum of P1,811.10 belonging to the public funds, by falsifying a public document that he caused to pass for a payroll (Provincial Form No. 38-A), which is voucher No. 363, making it appear therein that Basilia A. Franco, Magdalena L. Calzado, Severa R. Cabansag, Carlos Malabed, Pacifica Quiaoit, Santiago Narciso, Antonia Isaguirre, Dorico A. Gumtang, Remedios R. Cuanang, Juana Mangapit, Angela Bactat, Pio Sabas, Maria Rabanal, Flora Quiaoit, Leona Barroga, Andres G. Gumtang, Leonor Abellon, Sinforoso Lagadi, Victorina C. Quiaoit, Juana Lumang, Damaso Magno, Leonardo Laforga, Paz Crisostomo, Simeona S. Asuncion, Juana R. Ariola, Ruperto Quilal-lan, Dionisio Castro, Caridad Garganta, Marcela Rigonan, Doroteo M. Torres, Maria G. Rigonan, Cresenciana Mangapit, Modesto Calzado, Cecilia Asuncion, Trinidad Braceres, Trinidad Rosario, Rosario Galano, Maria M. Naanep, Tereza Lopez, Josefa Quiaoit, Gliceria Racpan, Petra A. Layaoen, Nicolas Ulit, Amparo Mendoza, Estrella G. Arcangel, Simeon Alonzo, all municipal teachers of Batac, except Simeon Alonzo who had ceased to be so since March 28, 1936, and Remedios R. Cuanang who was then on leave, received their corresponding salaries as such teachers for the period from July 1, 1936, to July 31, 1936, which salaries amounted to P811.10, and falsified or caused to be falsified, imitated or forged on the aforesaid document the signatures of the above-named teachers as well as that of Rosendo R. Paguyo, School Supervisor of Batac, whose duty was to approve and sign the teachers' payrolls, when in fact said teachers did not receive either wholly or in part the sums indicated as received by them in said document, nor was said document signed or approved by School Supervisor Rosendo R. Paguyo; and later, on October 3, 1936, in the above-stated municipality of Batac, said accused voluntarily, unlawfully and criminally entered said document in his cash book which is another public document, as a legal and valid payroll paid by him as voucher No. 363, thereby falsifying the statement of facts in said cash book, and appropriating for his personal use and benefit said sum of P1,811.10, the amount of the supposed payroll in question. Contrary to law."

In the third case (G. R. No. 45651), the allegations of the information imputing to the accused the crime of malversation with falsification of public documents, are couched in the following language:

"That on or about and within the period comprised between June 1, 1936, and October 3, 1936, in the municipality of Batac, Province of Ilocos Norte, Philippine Islands, the above-named accused, being municipal treasurer of said municipality and deputy provincial treasurer of Ilocos Norte, duly appointed and qualified as such, and being a bonded official besides, voluntarily, unlawfully and criminally, and taking advantage of his position, malversed and misappropriated the sum of P788.89 belonging to the public funds, by falsifying a public document that he caused to pass for a payroll (Provincial Form No. 38-A), which is voucher No. 364, making it appear therein that Severina R. Cabanag, Antonia Isaguirre, Juana Lumang, Dorico A. Gumtang, Remedios R. Guanang, Juana Mangapit, Simeona S. Asuncion, Flora Quiaoit, Dionisio Gastro, Caridad Garganta, Maria G. Rigonan, Marcela Rigonan, Gresenciana Mangapit, Doroteo M. Torres, Modesto Calzado, Trinidad Braceres, Petra A. Layaoen, Nicolasa Wit, Maria R. Naanep, Andres G. Gumtang, all municipal teachers of Batac, received their corresponding salaries as such teachers for the period from June 1, 1936, to June 30, 1936, which salaries amounted to P788.89, and falsified or caused to be falsified, imitated or forged on the aforesaid document the signatures of the above-named teachers as well as that of Rosendo R. Paguyo, School Supervisor of Batac, whose duty was to approve and sign the teachers' payrolls, when in fact said teachers did not receive either wholly or in part the sums indicated as received by them in said document, nor was said document signed or approved by school supervisor Rosendo R. Paguyo; and later, on October 3, 1936, in the above-stated municipality of Batac, said accused voluntarily, unlawfully and criminally entered said document in his cash book which is another public document, as a legal and valid payroll paid by him as voucher No. 364, thereby falsifying the statement of facts in said cash book, and appropriating for his personal use and benefit said sum of P788.89, the amount of the supposed payroll in question. Contrary to law."

And the allegations of the information in the fourth case (G. R. No. 45652), are literally as follows:

"That on or about and within the period comprised between August 1, and October 3, 1936, in the municipality of Batac, Province of Ilocos Norte, Philippine Islands, the above-named accused, being municipal treasurer of said municipality duly appointed and qualified as such, and being a bonded official besides, voluntarily, unlawfully and criminally, and taking advantage of his position, malversed and misappropriated the sum of P1,598.83 belonging to the public funds, by making it appear in his cash book which is a public document, that the payroll of the public school teachers of Batac, corresponding to the month of August, 1936, was paid twice by him, entering a copy of said payroll in his cash book, as voucher No. 307 on August 31, 1936, and again entering another copy thereof as voucher No. 366 on October 3, 1936, so that his cash book shows that he paid said payroll twice and that the teachers included in said payroll of August 1936 received their salaries twice, when in fact he paid said payroll only once and that the above-stated teachers collected their salaries for said month of August only once; and due to the double entry of said payroll in his cash book, the accused succeeded in appropriating and appropriated for his personal use the sum of P2,033.83, minus the sum of P425 which was recovered from his possession by the provincial auditor, thereby making the net amount embezzled P1,598.83. Contrary to law."

By reading the four informations inserted above, it clearly appears that the alleged acts of falsification and malversation imputed to the accused-appellant were committed by him, being municipal treasurer and bonded official of the municipality of Batac of the Province of Ilocos Norte, on entirely distinct occasions. The malversation alleged in the first information took place in May, 1936, and to conceal the same the appellant had to falsify the payroll, provincial form No. 38-A, of said month, executing therefor the acts stated in the information, which culminated in the falsification of his cash book on October 3, 1936. The malversation alleged in the second information, in turn, took place in July, 1936, and to conceal it, he likewise had to falsify the payroll, provincial form No. 38-A, of said month, executing therefor the acts stated in the information, which culminated in the falsification of voucher No. 365 of the office of said appellant in October, 1936. The malversation alleged in the

third information took place in June, 1936, and to conceal it from the officials assigned to examine his accounts, he falsified the official document known in the record as voucher No. 364. The malversation alleged in the fourth information took place in August, 1936, and, likewise, to conceal and hide said criminal act, the appellant falsified the official documents enumerated in said information, together with the official vouchers Nos. 307 and 366. It may therefore be said that the malversations as well as the falsifications imputed to the accused in the four cases under consideration were not the result of only one purpose or of only one resolution to embezzle and falsify, but of four or as many abstractions or misappropriations had of the funds entrusted to his care, and of as many falsifications also committed to conceal each of said acts. There is nothing of record to justify the inference that the intention of the appellant when he committed the malversation in May, 1936, was the same intention which impelled him to commit the other malversations in June, July and August. On the contrary, the allegations of each of the four informations above-stated warrant the conclusion that when the appellant committed the first malversation he did not yet have the intention to commit the other malversations. He did not commit them successively but at intervals of one month, after he had found out that there was no remedy for the bad act committed by him, having expected perhaps that he could remedy it. As may be seen, he was mistaken in his calculations. For these reasons, the accused-appellant is guilty of four malversations and of four falsifications because the latter were not a necessary means for the commission of the former, but were committed only to conceal them. This is so because when the appellant voluntarily pleaded guilty upon arraignment in connection with the four informations filed against him, he, in fact, admitted all the material facts alleged in each of them (U. S. vs. Barba, 29 Phil., 206; U. S. vs. Santiago, 35 Phil., 20; U. S. vs. Burlado, 42 Phil., 72; People vs. De Jesus, 35 Off. Gaz., 205); and, as already stated, the falsifications were committed by him after having consummated the malversations, only for the purpose of concealing or covering the latter (U. S. vs. Geta, 43 Phil., 1009; People vs. Villanueva, 58 Phil., 671). It is clear, therefore, that the accused and appellant committed a crime of malversation and a crime of falsification in the first case, that is, G. R. No. 45649; another malversation and another falsification in the second case, that is, G. R. No. 45650; another malversation and another falsification in the third case, that is, in that docketed as No. 45651, and finally a malversation and another falsification in the last case, that is, G. R. No. 45652. Taking into consideration the sums of money embezzled in said cases, to wit: P741.24 in the first; P1,811.10 in the second; P788.89 in the third; and P2,033.83 in the last case, of which sum P425 were recovered, the penalty that may be imposed upon the appellant for each malversation in the four cases in question, is the indeterminate penalty of prision correccional in its minimum and medium periods, that is, from six months and one day to four years and two months, to prision correccional in its maximum period to prision mayor in its minimum period, that is, from four years, two months and one day to eight years, plus a fine not to exceed P6,000 (article 217, No. 2, of the Revised Penal Code; Act No. 1403 as amended by Act No. 4225); and the penalty that should be imposed for falsification of official documents in each of said four cases is the indeterminate penalty of prision correccional in its full extent to prision mayor also in its full extent, plus a fine not to exceed P5,000 (article 171 of the Revised Penal Code; Acts Nos. 4103 and 4225). The above-stated penalties should be imposed upon said accused-appellant, without prejudice to his right recognized by article 70 of the Revised Penal Code, as amended by Commonwealth Act No. 217, that is, that he should not be sentenced to more than threefold the length of time corresponding to the most severe of the penalties imposed upon him.

For the foregoing reasons, the judgments appealed from are modified by imposing upon the accused-appellant the indeterminate penalty of from six months and one day of prision correccional to six years and one day of prision mayor for each of the falsifications committed by him in the three cases G. R. Nos. 45649, 45650 and 45651, plus the fine of P500 in each of said cases, and to indemnify the municipal government of Batac of the Province of Ilocos Norte in the sums of P741.24, P1,811.10 and P788.89, respectively. This court refrains from imposing upon him the penalties incurred by him for the malversations of which he pleaded guilty in the first three cases above-stated because the penalties prescribed for each of said crimes are less than those prescribed for the

falsifications. This court likewise refrains from imposing upon him the penalties incurred by him for the malversation and falsification alleged in the fourth case (G. R. No. 45652), because it is so prescribed by said article 70 of the Revised Penal Code, as amended by Commonwealth Act No. 217. In this last case, however, the appellant is sentenced by this court to indemnify the municipal government of Batac of the Province of Ilocos Norte in the sum of P1,598.83. Modified as above indicated, the four judgments appealed from in the above-cited four cases are hereby affirmed in all other respects, with the costs to the appellant. So ordered.

Avanceña, C. J., Villa-Real, Abad Santos, Imperial, Laurel, and Concepcion, JJ., concur.

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